

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
NOVEMBER 1, 1999 - 7:00 P.M.**

ROLLCALL Answering rollcall were Members Faust, Hovland, Kelly, Johnson, and Mayor Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Faust and seconded by Member Hovland approving the Council Consent Agenda as presented.

Rollcall:

Ayes: Faust, Hovland, Kelly, Johnson, Maetzold

Motion carried.

CUB SCOUT PACK 62 OF CONCORD SCHOOL WELCOMED Mayor Maetzold welcomed Cub Scouts from Pack 62, Dens 1 and 2 and their leaders from Concord School who were working on their citizenship badges.

MINNESOTA CHEMICAL HEALTH WEEK PROCLAIMED Mayor Maetzold proclaimed the week of November 15 -21, as Minnesota Chemical Health Week in Edina. He encouraged all citizens of Edina to participate in all Chemical Health Week activities and other alcohol and drug abuse prevention efforts year round.

***MINUTES OF THE REGULAR MEETING OF OCTOBER 19, 1999, APPROVED** Motion made by Member Faust and seconded by Member Hovland approving the Minutes of the October 19, 1999, Regular Council Meeting.

Motion carried on rollcall vote - five ayes.

REQUEST TO VACATE UTILITY, DRAINAGE AND OPEN SPACE EASEMENT AT 5811 VERNON LANE APPROVED Engineer Hoffman explained a petition had been filed with the City requesting vacation of a portion of the drainage, utility and open space easement located approximately five feet upland from the rear lot line of Lot 6, Block 1, Olde Vernon. The purpose of the vacation would be to allow a deck and three season porch to extend up to the rear lot line. These improvements would encroach approximately five feet into the 100 foot conservation restriction area along Hawkes Lake.

The property owners began construction of their home in July, 1999. The owners revised their plans during construction to include a deck and porch, all of which would be located on the subject lot although both would overlap into the easement area. Setbacks are not imposed on the individual platted lots, however, no structure may be located in an easement.

The utility companies and City engineering staff have no opposition to the vacation of the utility portion of the easement. Mr. Hoffman presented graphics that displayed the requested area for vacation and footprint of the deck and porch. During field review, staff discovered an unapproved storm sewer pipe installed in the common area which if plugged, would compromise drainage to Lots 7 through 11. The open swale (overflow) was designed to prevent flooding on homes to the west.

The City Engineer and Nine Mile Creek Watershed Engineer have jointly inspected the site and have come to the same conclusion.

Staff recommends the request, subject to restoration of the drainage overflow on the common area immediately southwest of Lot 6.

Following a brief Council discussion, Member Johnson made a motion introducing the following resolution approving the vacation of easements at 5811 Vernon Lane as requested and to permit encroachment into the conservation restriction subject to the drainage overflow along the south side of the lot in the common area being restored to the approved watershed and City grading plan.

**RESOLUTION VACATING EASEMENT
FOR UTILITY AND DRAINAGE PURPOSES**

WHEREAS, a motion of the City Council, on the 21st day of September 1999, fixed a date for a public hearing on a proposed street vacation; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on the 1st day of November, 1999, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, the Council deems it to be in the best interest of the City and of the public that said easement vacation be made; and

WHEREAS, the Council considered the extent the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota, that the following turnaround easement is hereby vacated effective as of November 1, 1999:

Vacating that part of the drainage and utility easement over, under and across Lot 6, Block 1 OLDE VERNON, Hennepin County, Minnesota as dedicated on said plat of OLDE VERNON and that part of the Open Space Easement as described in document number 2828064 on file and of record in the office of the County Recorder, Hennepin County, Minnesota described as commencing at the most northerly corner of said Lot 6; thence South 63 degrees 20 minutes 06 seconds East, on an assumed bearing, along the northeasterly line of said Lot 6 a distance of 19.49 feet to the point of beginning; thence continuing South 63 degrees 20 minutes 06 seconds East along said northeasterly line a distance of 25.40 feet; thence South 47 degrees 57 minutes 17 seconds West a distance of 5.37 feet to the southwesterly line of the drainage and utility easement as dedicated in said plat of OLD VERNON; thence North 63 degrees 20 minutes 06 seconds West, along said southwesterly line a distance of 25.40 feet; thence North 47 degrees 57 minutes 17 seconds East a distance of 5.37 feet to the point of beginning

BE IT FURTHER RESOLVED that said vacation does not affect, and there are continued, reserved, and retained, by the said resolution ordering the vacation, the following existing easements and authority in, on and under the above vacated area:

The authority of Northern States Power Company, US West Communications, Paragon Cable Minnesota, or Minnegasco to enter upon the above vacated area for the maintenance, replacement, repair and removal of and for otherwise attending to, underground conduit, manholes, cables, wires and poles required for utility service now in, on or under the above vacated area.

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

Mayor Maetzold seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Motion carried.

***LOT DIVISION AT 5040 AND 5044 JUANITA AVENUE APPROVED** The resolution for the lot division at 5040 and 5044 Juanita Avenue was originally approved at the August 3, 1999, regular Council meeting. Due to technical concern, the Lot Division was reheard again at the November 1, 1999, Regular Council meeting.

Motion made by Member Faust and seconded by Member Hovland introducing the following resolution and moving its approval:

RESOLUTION

WHEREAS, the following described properties are at present single tracts of land:

PARCEL 1:

All that part of Lot 3, lying westerly of a line drawn parallel with and 32 feet easterly of the westerly line of Lot 4 and Lot 5, Block 5, GLENVIEW ADDITION to Edina according to the plat thereof on file or of record in the office of the Registrar of Titles, Hennepin County, Minnesota

PARCEL 2:

Lot 5, Block 5, GLENVIEW ADDITION to Edina according to the plat thereof on file or of record in the office of the Registrar of Titles, Hennepin County, Minnesota

WHEREAS, the owners have requested the subdivision of said tracts into separate parcels (herein called "Parcels") described as follows:

PARCEL 1:

All that part of Lot 3 lying westerly of a line drawn parallel with and 32 feet easterly of the westerly line of Lot 4, Block 5, GLENVIEW ADDITION to Edina according to the plat thereof on file or of record in the office of the Registrar of Titles, Hennepin County, Minnesota and that part of Lots 4 and 5 said Block 5, GLENVIEW ADDITION TO EDINA, which lies northerly of a line and parallel with and 88 feet north of the south line of said Lot 5.

PARCEL 2:

That part of Lots 4 and 5, Block 5, GLENVIEW ADDITION TO EDINA, according to the plat thereof on file or of record in the office of the Registrar of Titles, Hennepin County, Minnesota which lies southerly of a line and parallel with and 88 feet north of the south line of said Lot 5.

WHEREAS, the requested subdivision is authorized under Code Section 810 and it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said Parcels as separate tracts of land do not interfere with the purpose of the Subdivision and Zoning Regulations as contained in the City of Edina Code Sections 810 and 850;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the second above described Parcels as separate tracts of land is hereby approved and the requirements and provisions of code Sections 850 and 810 are hereby waived to allow said division and conveyance thereof as separate tracts of land but only to the extent permitted under Code Sections 810 and 850 subject to the limitations set out in Code Section 850 and said Ordinances are not waived for any other purpose or as to any other provisions thereof, and further subject, however, to the provision that no further subdivision be

made of said Parcels unless made in compliance with the pertinent Ordinances of the City of Edina or with the prior approval of this Council as may be provided for by those Ordinances.

Adopted this 1st day of November, 1999.

Motion carried on rollcall vote - five ayes.

***BID AWARDED FOR WATER TREATMENT NO. 3, REHABILITATION** Motion made by Member Faust and seconded by Member Hovland for award of bid to refurbish water treatment plant No. 3, to recommended low bidder, EnComm Midwest at \$458,410.00.

Motion carried on rollcall vote - five ayes.

***RESOLUTION EXTENDING HENNEPIN COUNTY ELECTRONIC PROPRIETARY DATA BASE (EPDB) CONDITIONAL USE LICENSE AGREEMENT APPROVED** Motion made by Member Faust, seconded by Member Hovland introducing the following resolution:

**RESOLUTION AUTHORIZING EXECUTION AND
DELIVERY OF CONDITIONAL USE AGREEMENT WITH
HENNEPIN COUNTY**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota (the "City") as follows:

Section 1. **Recitals.** Hennepin County (the "County") has developed an Electronic Proprietary data Base (EPDB) the ("Data Base"), which the City desires to utilize. There has been prepared and presented to the City a Conditional Use License Agreement ("The Agreement") between the City and County, pursuant to which the county grants the City a limited license to use the Data Base as provided in the Agreement and the City agrees to pay a fee for the use of the Data Base.

Section 2. **Approvals.** The form of the Agreement is hereby approved, and the Mayor and City Manager are authorized to enter into the Agreement on behalf of the City in substantially the form presented to the City with such changes or modifications thereto as do not change the substance of the Agreement and are approved by the Mayor and City Manager, such approval to be conclusively presumed by the execution and delivery of the Agreement by the Mayor and City Manager.

Motion carried on rollcall vote - five ayes.

SALE OF T.H. 169/I-494 PROPERTY APPROVED Robert Schoening of the Schoening Group gave background information into the proposed sale of land located at Highway 169 and 494.

History of Land

- Property was part of annexation and land trade in 1981 between Bloomington and Edina as part of Radisson South hotel property
- The eastern portion was developed in the early 1980's as Braemar Office Park (two 4-story office buildings)
- The City acquired the land in 1991 from the RTC
- The City has since used the property for temporary storage and recycling of asphalt and concrete
- In 1997, the City reached an agreement with MnDOT whereby the City would grant easements to allow reconstruction of the interchange at 494 and 169 as well as an easement for storm water ponding for both the highway and the City property. In return, MnDOT would grant easements to the City necessary to construct a frontage road from the City property to Valley View and 169
- Construction of the new interchange at 494 and 169 is expected to be completed this year

Property Analysis and Valuation

A. Site Data:

Total Site Area	12.82 acres
Lot 1	10.51 acres
Lot 2	2.31 acres
Area within flood plain	6.00 acres
Area within easements	3.01 acres
Total Useable Area	3.86 acres
Lot 1	2.50 acres
Lot 2	1.36 acres

B. Development Concepts

The Schoening Group recommended the City retain BRW to study alternative illustrative and conceptual plans addressing the issues of zoning, soil conditions, flood plain areas, easements, parking and topography.

BRW created development concepts for both 1) POD-1 zoning and 2) POD-2 zoning which plans were incorporated into an offering package as a guide for potential purchasers.

Marketing of the Property

- A complete offering package was prepared on the property
- The offering package was submitted to developers, potential owner/users, and other parties who requested information
- A date was established at which time the City would consider offers on the property
- Four (4) offers were received and reviewed with City staff. The offer presented by Frauenshuh (DRF Holdings) was considered the best offer considering price and terms

Process with Frauenshuh

- Met with BRW to review all available information and further evaluate development alternatives
- Conducted additional soil tests on property. Cost to create a buildable site for office building and structural parking estimated at \$1.4 million
- Retained RSP Architects to develop site plans based upon soil conditions, structural parking, easements and other considerations
- Negotiated a Purchase Agreement

Negotiations suspended as City of Edina unable to commit to:

1. Provide access to site (frontage road) due to the agreement between MnDOT and the Contractor
2. The completion of the vacation of the cul-de-sac with Bloomington
3. Clear title

It was agreed upon to complete a Purchase Agreement with Frauenshuh when the completion of the interchange project was defined more clearly and the city could better judge the timing for providing Frauenshuh with access to the site.

Meetings over the past thirty days have resulted in the negotiation of a Purchase Agreement for consideration

Purchase Agreement Summary

Purchaser:	DRF Holdings (Frauenshuh)
Seller:	City of Edina
Purchase Price	\$1,135,000
Property	Lots 1 and 2 to be platted
Contingencies:	1) Plat approved

	2) Government approvals for re-zoning of Lot 1 to POD-2
	3) Title
	4) property annexation for the frontage road with MnDOT
	5) Vacancy of cul-de-sac (City of Bloomington)
	6) Access road for hauling and future frontage road
	All contingencies to be satisfied by April 30, 2000.
Extension Rights	Both buyer and seller have rights to extend the contingency dates by sixty days
Closing Date	Thirty days after all contingencies are removed
Soil Exchange	Seller to provide 15,000 cubic yards of granular borrow from the north side of Nine Mile Creek. Buyer to replace with non-granular soils.

Following a brief Council discussion, **Member Hovland made a motion authorizing execution of a purchase agreement with DRF Holdings L.L.C., for property generally located in the northeast quadrant of the intersection of U.S. Highway 169 and Interstate Highway 494 in Edina, Minnesota.** Member Kelly seconded the motion.

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Motion carried.

***JOINT POWERS AGREEMENT FOR HENNEPIN SOUTH SERVICES COLLABORATIVE AGREEMENT REVISION APPROVED** Motion made by Member Faust and seconded by Member Hovland approving the Revised Joint Powers Agreement for Hennepin South Services Collaborative.

Motion carried on rollcall vote - five ayes.

***HEARING DATE SET OF DECEMBER 7, 1999, FOR AMENDMENT TO GRANDVIEW TAX INCREMENT FINANCING DISTRICT PLAN** Motion made by Member Faust and seconded by Member Hovland setting December 7, 1999, as hearing date for an Amendment to the Grandview Tax Increment District Plan.

Motion carried on rollcall vote - five ayes.

CLAIMS PAID Motion made by Member Kelly approving payment of the following claims as shown in detail on the Check Register dated October 29, 1999, and consisting of 26 pages: General Fund, \$171,083.46; Communications \$8,494.24; Working Capital \$62,650.04; Art Center \$15,301.99; Golf Dome Fund \$2,439.17; Swimming Pool Fund \$68.00; Golf Course Fund \$15,106.73; Ice Arena Fund \$2,200.95; Edinborough/Centennial Lakes \$7,353.26; Utility Fund \$329,062.51; Storm Sewer Utility Fund \$7,640.00; Recycling Program \$2,547.50; Liquor Dispensary Fund \$154,615.95; Construction Fund \$2,684.86; TOTAL \$781,248.66. Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Maetzold adjourned the Council Meeting at 9:42 P.M.

City Clerk